

Serial No. 10/659,400

Docket No. P-0530

Amendment dated January 22, 2007

Reply to Office Action of November 9, 2006

### **REMARKS**

Entry of the amended claims is proper under 37 C.F.R. §1.116 since the amendments: (1) place the application in condition for allowance (for the reasons discussed herein); (2) do not raise any new issues requiring further search and/or consideration (since the amendments amplify issues previously discussed throughout prosecution without incorporating additional subject matter); (3) satisfy a requirement of form asserted in the previous Office Action; and/or (4) place the application in better form for appeal (if necessary). Entry is thus requested.

By the present response, Applicant has canceled claim 6 without disclaimer. Claims 1, 3-5, 7-22, 24 and 25 are pending in this application. Reconsideration and withdrawal of the outstanding rejections and allowance of the present application are respectfully requested in view of the above amendments and the following remarks.

In the Office Action, claims 1, 3-22, 24 and 25 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0203615A1 (Qu et al.).

### **Response to Arguments**

In the Response to Arguments section of the Office Action on page 9, the Examiner maintains that Qu et al. discloses performing a SMS message including a parameter to be changed in a mobile communication to receive a SMS message and a password for a certification of a sender of the SMS message. However, to support these assertions, the Examiner merely

recites disclosure from Qu et al. that relates to a mobile user's ability to control which broadcast messages to receive and process by the mobile station. In none of the assertions by the Examiner is there mentioned "forming a SMS message" or forming a SMS message including a parameter to be changed. The Examiner merely recites disclosure of Qu et al. that does not relate at all to the limitations in the claims of the present application. The Examiner fails to specifically identify "a parameter to be changed" as recited in the claims of the present application. Further, the Examiner fails to specifically identify where in Qu et al. it is disclosed a password for a certification of a sender of the SMS message including the parameter to be changed. The mere disclosure in Qu et al. of a mobile user's ability to control which broadcast messages to receive and process does not disclose or suggest these limitations in the claims of the present application.

All of the support for the Examiner's assertions is based on mobile user's ability to control. In contrast, the limitations in the claims of the present application relate to a sender sending an SMS message to a terminal receiving the SMS message where the SMS message includes a parameter to be changed in the terminal and a password for a certification of the sender. Qu et al. relating to simply a mobile user's ability to control receipt of broadcast messages does not disclose or suggest these limitations in the claims of the present application.

The Examiner then appears to justify his assertion that Qu et al. discloses receiving an SMS message and a password for a certification of a sender of the SMS message, by the

disclosure in Qu et al. of filtering criteria being defined by settings stored in a removable module coupled to the receiver. However, Applicant's fail to understand the Examiner's logic where he asserts stored settings in a removable module disclosing or suggesting an SMS message being sent by a sender where the SMS message includes a password for certification of the sender. The settings stored in the removable module in Qu et al. are not sent by a sender via an SMS message. Further, there is no disclosure or suggestion that the settings stored in the removable module contain a password for certification of a sender of a SMS message, as recited in the claims of the present application.

Moreover, the Examiner appears to cut and paste these exact same justifications relating to the filtering criteria in Qu et al. to justify maintaining that Qu et al. discloses changing the stored parameter at the mobile telecommunication terminal when the password contained in the SMS message is identical to a password stored in the mobile telecommunication terminal, and the value for changing the performance controlling parameter. However, filtering criteria defined by settings stored in a removable module regardless of how the filtering criteria are determined or by whom they are determined, does not disclose or suggest transmitting a SMS message, or transmitting the SMS message to change a pre-stored parameter that controls a performance of the mobile telecommunication terminal, as recited in the claims of the present application. None of the disclosure of Qu et al. mentioned by the Examiner discloses or suggests transmitting a SMS message. Further, none of the disclosure of Qu et al. relating to

filtering criteria discloses or suggests a SMS message being transmitted to change a pre-stored parameter that controls a performance of the mobile telecommunications terminal. Further, Qu et al. nor any of the disclosure mentioned by the Examiner, disclose or suggest changing a stored parameter at the mobile telecommunication terminal when the password contained in the SMS message is identical to a password stored in the mobile telecommunication terminal. The Examiner fails to specifically identify anywhere in Qu et al., or in any other reference, that discloses or suggests changing a parameter at a mobile communication terminal in response to receipt of a SMS message to change a pre-stored parameter, when the password contained in the SMS message is compared to a password stored in the mobile communication terminal and is determined to be identical. These limitations are neither disclosed nor suggested in Qu et al.

### 35 U.S.C. § 102 Rejections

Claims 1, 3-22, 24 and 25 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Qu et al. Applicant has canceled claim 6. Applicant respectfully traverses these rejections as to the remaining claims.

To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 U.S.P.Q.2d (BNA) 1429, 1431 (Fed. Cir. 1997). The identical invention must be shown in as complete detail as is contained in the . . . claim. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); M.P.E.P. §2131. The elements must

be arranged as required by the claim. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. §2131. It is respectfully submitted that the Examiner has not met the required legal burden as set forth by the courts to substantiate valid rejections under 35 U.S.C. 102(e).

Regarding claims 1, 8, 16 and 22, Applicant submits that Qu et al. does not disclose or suggest the limitations in the combination of each of these claims. For example, the Examiner asserts that Qu et al. discloses forming a short message service message including a parameter to be changed in a mobile telecommunication terminal to receive the SMS message and a password for a certification with a destination mobile telecommunication terminal, at paragraphs 25, 30 and 31. However, as noted in Applicant's previously-filed response, these portions merely disclose that SMS is network technology dependent where each SMS implementation has different capabilities and utilizes different message types and formats for sending short messages, that data and messages sent by the mobile station are encoded and modulated, and that the mobile station may include a removable user identity module that stores a subscribers identity information, information used to filter broadcast SMS messages, and that makes it easier to roam the countries by allowing subscribers to exchange handsets by using the same removable module to maintain their personal information. This is not forming a SMS message including a parameter to be changed in a mobile telecommunication terminal to receive a SMS message and a password for a certification of a sender of the SMS message, as recited in the claims of the

present application. These limitations are neither disclosed nor suggested in these portions of Qu et al.

The Examiner asserts that Qu inherently teaches a parameter to be changed in a mobile telecommunication terminal to receive the SMS message and a password for a certification with a destination mobile telecommunication terminal, and cites table 3 and paragraphs 46-49. However, as noted in Applicant's previously-filed response, these portions merely disclose a list of fields for the header portion of the elementary files used to store various types of information related to SMS in the removable module, and the format and information contained in an elementary file used to store network configuration settings, user configuration settings, and information for the service table and the filtering criteria related to user preferences. These portions do not disclose or suggest anything related to a parameter to be changed in a mobile telecommunication terminal, as recited in the claims of the present application. Further, these limitations are not inherently taught by this disclosure of Qu et al. Moreover, Qu et al. does not disclose or suggest anything related to receiving an SMS message and a password for a certification of a sender of the SMS message. Qu et al. merely discloses the format and information contained in three elementary files used to store information in the removable module.

The Examiner further asserts that Qu et al. discloses transmitting the SMS message to change a pre-stored parameter that controls a performance of the mobile communication

terminal, at paragraph 6, 31, 37 and 38. However, as noted above and in Applicant's previously-filed response, these portions merely disclose details regarding the filtering of broadcast SMS messages at the mobile station where the broadcast message filtering criteria are classified into network configuration, user configuration, and user preferences. This is not transmitting the SMS message to change a pre-stored parameter that controls a performance of the mobile telecommunication terminal, as recited in the claims of the present application. Network configuration, user configuration, and user preferences are not controlling a performance of the mobile telecommunication terminal. In addition, Qu et al. does not disclose or suggest changing the stored parameter at the mobile telecommunication terminal when the password contained in the SMS message is identical to a password stored in the mobile telecommunication terminal.

Moreover, the Examiner asserts that Qu et al. discloses including the performance controlling parameter as a parameter of the mobile telecommunication terminal that received the SMS message wherein a value for changing the performance controlling parameter is included as a special field among SMS message formats of the mobile telecommunication terminal, in paragraphs 4 and 46. However, as noted in Applicant's previously-filed response, these portions merely disclose that if settings are stored in the removable module, the mobile user is able to move the module and insert it into another mobile station preserving the same broadcast SMS configuration and preferences, and as previously noted, the removable module includes a number of elementary files used to store various types of information related to SMS. These

portions do not disclose or suggest a value for changing the performance controlling parameter, as recited in the claims of the present application. Further, these portions do not disclose or suggest anything related to a special field among SMS message formats of the telecommunication terminal that includes the value for changing the performance controlling parameter. These portions merely relate to the portability of settings due to the removable module and the elementary files used to store information in the removable module.

In addition, the Examiner asserts that Qu et al. discloses a SMS message that includes a CHARi field configured to contain a performance controlling parameter value to be provided to a mobile communication terminal to modify an operation of the mobile telecommunication, and a MSG-ENCODING field to indicate a kind of code used in the CHARi field, in paragraphs 56-60. However, these portions merely disclose details regarding an SMS deliver message that may be used to add or remove broadcast service categories in the mobile station's service table, and that may be used to send the network configuration setting. These portions do not disclose or suggest a SMS message that includes a field configured to contain a performance controlling parameter value to be provided to a mobile communication terminal to modify an operation of the mobile telecommunication terminal, as recited in the claims of the present application. These portions do not disclose or suggest anything related to a performance controlling parameter value. Further, neither these portions of Qu et al. nor paragraphs 46-49 disclose or suggest a performance controlling password field configured to contain a password of the



mobile communication terminal to authenticate a sender of the SMS message, as recited in the claims of the present application.

Applicant submits that the disclosure and invention as well as the problem to be solved of Qu et al. are totally unrelated to the limitations in the claims of the present application. Qu et al. is related to filtering of broadcast SMS messages where the filtering may be related to (1) messages allowed to be received and (2) messages that the mobile station is only interested in receiving. Thus, Qu et al. is solely directed to techniques to filter SMS broadcast messages to be received by a mobile station based on criteria determined by either the service provider and/or the mobile user (see, paragraphs [0003]-[0005]). The filtering criteria may be defined by settings stored in a removable module or over the air programming (see, paragraph 7 and 10). In any event, the filtering criteria are defined and set before receipt of the SMS messages so that the filtering criteria can be used to determine whether the SMS broadcast messages are to be received or filtered out.

In contrast to Qu et al., the limitations in the claims of the present application attempt to solve an entirely different problem. As noted in paragraphs 10 and 11 of Applicant's disclosure, prior art systems have various problems regarding controlling performance features of a mobile communication terminal where either the terminal has to be upgraded or the entire software on the terminal has to be upgraded. Example embodiments of the present invention solve these problems by allowing an SMS message containing a pre-stored parameter to be changed being

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sent and received at the mobile telecommunication terminal where a sender of the SMS message is verified via a password contained in the SMS message and the parameter is changed if the password is identical to a password stored in the mobile telecommunications terminal. The disclosure of Qu et al. and the limitations in the claims of the present application are directed to two entirely different problems and solutions.

Regarding claims 3-5, 7, 9-15 17-21, 24 and 15, Applicant submits that these claims are dependent on one of independent claims 1, 8, 16 and, therefore, are patentable at least for the same reasons noted previously regarding these independent claims.

Accordingly, Applicant submits that Qu et al. does not disclose or suggest the limitations in the combination of each of claims 1, 3-5, 7-22, 24 and 25 of the present application. Applicant respectfully requests that these rejections be withdrawn and that these claims be allowed.

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### CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that claims 1, 3-5, 7-22, 24 and 25 are now in condition for allowance. Accordingly, early allowance of such claims is respectfully requested. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Frederick D. Bailey, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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